

1 COMMONWEALTH OF MASSACHUSETTS
2 DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
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6 FIBER TECHNOLOGIES NETWORKS, L.L.C.)
7 140 Allens Creek Road)
8 Rochester, NY 14618)
9)

10 Complainant,)
11)

12 v.)

D.T.E. 01-70

13)
14 TOWN OF SHREWSBURY ELECTRIC)
15 LIGHT PLANT)
16 100 Maple Avenue)
17 Shrewsbury, MA 01545-5398)
18)

19 Respondents.)
20 _____)
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26 Direct Testimony of

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28 **Mario R. Rodriguez**

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30 witness for

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32 Fiber Technologies Networks, L.L.C.
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34 November 9, 2001
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1 **Q:** Please state your name, position and business address.

2 **A:** My name is Mario R. Rodriguez. I am the Director of Governmental Affairs and
3 Facilities Access of Fibertech Networks, LLC, sole member of Fiber Technologies
4 Networks, L.L.C. (“Fibertech”), 140 Allens Creek Road, Rochester, New York, 14618.

5 **Q:** How long have you worked at Fibertech?

6 **A:** I began as a consultant to Fibertech on September 18, 2000. On November 1, 2000, I
7 became a full-time employee at Fibertech.

8 **Q:** On whose behalf is this testimony being presented?

9 **A:** I am appearing on behalf of Fibertech.

10 **Q:** Please describe the work you do for Fibertech.

11 **A:** My responsibilities at Fibertech include the procurement of authorizations from
12 municipalities for the installation of facilities by Fibertech in the public rights-of-way.

13 **Q:** What involvement, if any, have you had with the Town of Shrewsbury Electric Light
14 Plant (“SELP”)?

15 **A:** I first became involved on or about April 25, 2001, when I began gathering and
16 reviewing the files on Fibertech’s requests to gain access to SELP’s poles. I made
17 contact with Thomas R. Josie, General Manager of SELP, and set up a meeting with him
18 on May 7, 2001. During the meeting, Fibertech expressed its desire to obtain access to
19 SELP’s poles, and Mr. Josie stated, “I will have to take it up with the board and get back
20 to you.” Then, on May 10, 2001, I was part of a telephone conference with Mr. Josie.
21 During this conference call, Mr. Josie again informed Fibertech that he had to take the
22 matter to the board. The next day, Fibertech sent Mr. Josie a letter asking him to explain

1 why he needed to speak to the board, since Fibertech had a right to attach to SELP's
2 poles.¹

3 **Q:** With respect to SELP, what transpired next?

4 **A:** On May 15, 2001, I had a conversation with Mr. Josie. I asked Mr. Josie for a status
5 update on Fibertech's repeated requests for access to SELP's poles. Mr. Josie stated,
6 "We are where we are with the proposal", and the conversation ended. I then followed
7 up with a written letter on May 15, 2001. This letter requested Mr. Josie's response as to
8 whether SELP intended to allow Fibertech to attach its fiber lines to SELP's poles.²

9 **Q:** Did you speak to Mr. Josie after he received your May 15, 2001, letter?

10 **A:** Yes. I spoke with Mr. Josie again on May 23, 2001. I asked Mr. Josie again about
11 Fibertech's request to obtain access to SELP's poles. Mr. Josie informed me that SELP
12 was only willing to lease Fibertech the fiber, and then Mr. Josie stated, "Shrewsbury will
13 stand basically on its present proposal to Fibertech."

14 **Q:** As a result of your conversation with Mr. Josie, what did Fibertech do next?

15 **A:** On June 7, 2001, Fibertech sent another formal request to SELP requesting access to
16 SELP's poles for Fibertech's communication fiber lines.³

17 **Q:** What was SELP's response?

18 **A:** On July 19, 2001, SELP sent Fibertech a letter denying Fibertech access to its poles on the
19 sole grounds that Fibertech is not a "licensee".⁴

20 **Q:** Did Fibertech take any further steps to obtain access to SELP's poles after receiving
21 SELP's July 19, 2001, letter denying Fibertech access to its poles?

¹ A true copy of Fibertech's May 11, 2001, letter is attached hereto as Attachment 1.

² A true copy of Fibertech's May 15, 2001, letter is attached hereto as Attachment 2.

³ A true copy of Fibertech's June 7, 2001, letter is attached hereto as Attachment 3.

⁴ A true copy of SELP's denial letter dated July 19, 2001, is attached hereto as Attachment 4.

1 **A:** Other than filing this complaint with the Department, we did not. After Fibertech's
2 receipt of SELP's July 19, 2001, denial and after almost a year of trying to reach an
3 agreement with SELP, any further efforts to resolve the issue, besides filing a complaint
4 with the DTE, would have been futile.

5 **Q:** Does this conclude your testimony at this time?

6 **A:** Yes, it does.

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